

CITY COUNCIL AGENDA

AUGUST 26, 2008

AMENDED AGENDA

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
Hear Open Forum and continue the RDA Board Meeting
- **Invocation (District 7)**
Monsignor Dominic of Saint Maria Goretti Church
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

ADJOURNMENT: This meeting will be adjourned in memory of David Allard, Sr., a City employee for over 13 years, who passed away June 17, 2008.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1** Presentation of a proclamation declaring September as Latino Health Awareness Month in the City of San José. (Campos)
* (Rules Committee referral 8/20/08)
- 1.2** Presentation of a commendation to Kerio Technologies for its innovation in software solutions and contributions to the global and local San José economies.
(Mayor/Redevelopment Agency)
* (Rules Committee referral 8/20/08)
- 1.3** Presentation of a commendation to San José State University Honor Students Chienfei Connie Chen, Kiran Sharma, and Rick Dexter for their great service in helping to create the Urban Forest of San José website for use by our residents and City staff.
(Transportation)
* (Rules Committee referral 8/20/08)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28366 – Rezoning certain real property situated at the northeast corner of Zanker Road and River Oaks Parkway (199 River Oaks Parkway) to the A(PD) Planned Development Zoning District. PDC07-102
- (b) ORD. NO. 28367 – Rezoning certain real property situated on the north side of Elden Drive, approximately 500 feet easterly of South Bascom Avenue (679 and 681 Elden Drive) to A(PD) Planned Development Zoning District. PDC06-082
- (c) ORD. NO. 28368 – Rezoning certain real property situated on the southwest corner of San Felipe Road and Aborn Road (3303 San Felipe Road) to CN Commercial Neighborhood Zoning District. C08-026
- (d) ORD. NO. 28369 – Rezoning certain real property situated on the east side of Seaboard Avenue, approximately 300 feet southerly of Trimble Road (2586 Seaboard Avenue) to LI-Light Industrial Zoning District. C08-009

(Item continued on the next page)

2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- (e) ORD. NO. 28370 – Rezoning certain real property situated on the southeast corner of Monterey Road and Old Tully Road (2400 Monterey Road) to CN Commercial Neighborhood Zoning District. C08-027
- (f) ORD. NO. 28371 – Rezoning certain real property situated on the southeast corner of South Second Street and Keyes Street (1140 South Second Street) to A(PD) Planned Development Zoning District. PDC07-086
- (g) ORD. NO. 28372 – Prezoning certain real property situated on both sides of Norman Avenue, Willow Street, Santa Lucia Drive, Santa Inez Drive, and St. Anthony Drive, as well as the area bounded by these streets to the north of Keesling Avenue from County of Santa Clara to R-1-5 Single-Family Residence Zoning District. C08-021
- (h) ORD. NO. 28373 – Prezoning certain real property situated on the south side of Keesling Avenue, on both sides of Grace Avenue south of Keesling Avenue, west of Phantom Avenue, approximately 100 feet northerly of Hamilton Avenue, and west of Meridian Avenue, on both sides of Isabel Drive and north of Blackford Lane from County of Santa Clara to R-2 Single-Family Residence Zoning District. C08-021
- (i) ORD. NO. 28374 – Prezoning certain real property situated on the west side of Meridian Avenue, between Hamilton Avenue and Blackford Lane from County of Santa Clara to CN Commercial Neighborhood Zoning District. C08-021
- (j) ORD. NO. 28375 – Prezoning certain real property situated on the north side of Hamilton Avenue, from approximately 350 feet west of Meridian Avenue to the west side of Norman Avenue, and west of Meridian Avenue, approximately 100 feet north of Isabel Drive from County of Santa Clara to CO Commercial Office Zoning District. C08-021
- (k) ORD. NO. 28376 – Prezoning certain real property situated along and within the area generally bounded by Ciro Avenue, Di Salvo Avenue, Bailey Avenue, and Bellerose Drive, north of Stevens Creek Boulevard, from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-025
- (l) ORD. NO. 28377 – Prezoning certain real property situated on the east side of Bellerose Drive, approximately 150 feet northerly of Stevens Creek Boulevard from County of Santa Clara to R-2 Two-Family Residence Zoning District. C08-025

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2. CONSENT CALENDAR

2.2 Final adoption of ordinances. (Cont'd.)

Recommendation: Final adoption of ordinances.

- (m) ORD. NO. 28378 – Rezoning certain real property situated on the east side of Di Salvo Avenue, approximately 300 feet northerly of Steven Creek Boulevard, from County of Santa Clara to R-M Multiple Family Residence Zoning District. C08-025
- (n) ORD. NO. 28379 – Rezoning certain real property situated on the northwest corner of Stevens Creek Boulevard and Revey Avenue from County of Santa Clara to CP Commercial Pedestrian Zoning District. C08-025
- (o) ORD. NO. 28380 – Rezoning certain real property situated north of O'Connor Drive on both sides of Di Salvo Avenue from County of Santa Clara to CO Commercial Office Zoning District. C08-025
- (p) ORD. NO. 28381 – Rezoning certain real property situated north of Dry Creek Road and south of Campbell Avenue, westerly of Meridian Avenue from County of Santa Clara to R-1-2 Single-Family Residence Zoning District. C08-020
- (q) ORD. NO. 28382 – Rezoning certain real property situated north of Dry Creek Road, west of Meridian Avenue, east of Leigh Avenue, and south from the properties along the north side of McBain Avenue from County of Santa Clara to R-1-5 Single-Family Residence Zoning District. C08-020
- (r) ORD. NO. 28383 – Rezoning certain real property situated east of Hurst Avenue, west of Meridian Avenue, north from the properties along the south side of Montemar Avenue, and south from the properties along the north side of Willowhurst Avenue from County of Santa Clara to R-1-8 Single-Family Residence Zoning District. C08-020
- (s) ORD. NO. 28384 – Rezoning certain real property situated on the southwest corner of Meridian Avenue and Willowhurst Avenue from County of Santa Clara to CN Commercial Neighborhood Zoning District. C08-020
- (t) ORD. NO. 28385 – Rezoning certain real property situated west of Meridian Avenue, approximately 120 feet southerly of Willowhurst Avenue and south of Willowhurst Avenue, approximately 180 feet westerly of Meridian Avenue from County of Santa Clara to CO Commercial Office Zoning District. C08-020
- * (u) ORD. NO. 28387 – Amending Title 14 of the San José Municipal Code to add a new Chapter 14.32 to establish a procedure for the financing of certain public capital facilities through the establishment of Convention Center facilities districts, the levy of special taxes and the issuance of bonds secured by such special taxes.

2. CONSENT CALENDAR

2.3 [Continuation Agreement for actuarial services related to labor negotiations.](#)

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a Continuation Agreement with Bartel Associates LLC for additional consultant actuarial services related to labor negotiations concerning police retirement benefits, continuing the term through June 30, 2009 and increasing compensation by \$150,000, for a total maximum compensation not to exceed \$330,000. CEQA: Not a Project. (City Attorney's Office)

2.4 [Office of the City Auditor's Report.](#)

Recommendation: Accept the Office of the City Auditor's *Report of Activities and Findings for the Period June 16 through June 30, 2008*. (City Auditor)

2.5 [Findings report relating to the Bay 101 Conditional Approval of Stock Transfer.](#)

Recommendation: Accept the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2008. (City Auditor)

2.6 [Workforce Investment Act Fund for the State Employment Training Panel Grant.](#)

Recommendation: Adopt an Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund to:

- (a) Establish an appropriation to the Office of Economic Development for the State Employment Training Panel Grant project in the amount of \$385,000.
- (b) Increase the estimate for Earned Revenue by \$385,000.

CEQA: Not a Project. (Economic Development/City Manager's Office)

2.7 [Workforce Investment Act Fund for Department of Health & Human Services.](#)

Recommendation: Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Workforce Investment Act Fund:

- (a) Establish an appropriation to the Office of Economic Development for the Department of Health & Human Services for New Americans Job Program in the amount of \$191,593.
- (b) Increase the estimate for Earned Revenue by \$191,593.

CEQA: Not a Project. (Economic Development/City Manager's Office)

2.8 [Amendment to the Agreement with Verisign, Inc.](#)

* **Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to execute an amendment to the agreement with VeriSign, Inc. to extend the term of the agreement from May 21, 2008 through June 30, 2009, and increase maximum compensation from \$249,760, by \$100,000, to \$349,760.

(Item continued on the next page)

2. CONSENT CALENDAR

2.8 Amendment to the Agreement with Verisign, Inc. (Cont'd.)

Recommendation:

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendment in the General Fund:
 - (1) Increase the Beginning Fund Balance by \$250,000;
 - (2) Increase the Information Technology Department (ITD) Non-personal/Equipment appropriation in the amount of \$250,000.
- CEQA: Not a Project. (Information Technology/City Manager's Office)

2.9 Approve Travel for Independent Police Auditor.

Recommendation: Approve travel for Independent Police Auditor Barbara Attard, for two business-related trips:

- (a) To conduct training in investigations and oversight of police misconduct cases for the Police Service Commission in Abuja, Nigeria on September 15-19, 2008.
Source of Funds: CLEEN Foundation and the Open Society Justice Initiative.
- (b) To attend the NACOLE Annual Conference in Cincinnati, Ohio on October 27-30, 2008. Source of Funds: IPA General Fund Budget.
(Independent Police Auditor)

2.10 City of San José's Sewer System Management Plan.

Recommendation: Approve the City of San Jose's Sewer System Management Plan that is required by State Water Resources Control Board Order No. 2006-0003 - Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. CEQA: Not a Project. (Transportation/Public Works/Environmental Services)

2.11 Councilmember Chu's Travel to Long Beach, CA.

Recommendation: Approve travel by Councilmember Chu to Long Beach, CA on September 24-27, 2008 to participate in the League of California Cities' Annual Conference. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 8/13/08)

2.12 Excused absences for Councilmember Campos.

Recommendation: Request excused absences for Councilmember Campos from the following regularly scheduled meetings due to maternity leave:

- (a) Closed Session and Regular City Council Meeting of August 19, 2008.
- (b) Healthy Neighborhood Venture Fund Advisory Committee Meeting of August 21, 2008.

(Item continued on the next page)

2. CONSENT CALENDAR

2.12 Excused absences for Councilmember Campos. (Cont'd.)

Recommendation:

- (c) Regular Meeting of the Community and Economic Development Committee of August 25, 2008.
- (d) Closed Session and Regular City Council Meeting of August 26, 2008.
(Campos)

* (Rules Committee referral 8/20/08)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)

3.2 Report of the Rules and Open Government Committee – August 13, 2008

Mayor Reed, Chair

- (a) City Council (City Clerk)
 - (1) Review August 19, 2008 Final Agenda
 - (2) Review August 26, 2008 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Recommendation to adopt a support position for SB 1420 (Padilla). (Williams)
 - (b) Sacramento Update (verbal report). (City Manager's Office)
 - (2) Federal
 - (a) Federal Relations Update – August Recess 2008. (City Manager's Office)
- (d) Meeting Schedule
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committee
- (g) Rules Committee Reviews, Recommendations and Approvals
- (h) Review of additions to Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force (SRTF)
 - Review of SRTF Phase II Report and Recommendations
 - (a) SRTF Phase II Report and Recommendations
 - (b) Staff's Response to Phase II Report and Recommendations of the SRTF.
 - (c) SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

3. STRATEGIC SUPPORT SERVICES

- 3.3 **Report of the Public Safety, Finance and Strategic Support Committee**
Councilmember Nguyen, Chair – *No Report.*

- 3.4 [Response to the Civil Grand Jury Report entitled “City Fails to Hold History San José Accountable”.](#)

Recommendation: Accept the staff response to the Civil Grand Jury Report entitled, “City Fails to Hold History San José Accountable”. CEQA: Not a Project. Council District 7. (General Services)

- 3.5 [SB 1420 \(Padilla\) – Food Facilities: Nutritional Information.](#)

[Supplemental – Memo from Councilmember Williams](#)

[Supplemental – Memo from the Office of the City Manager](#)

Recommendation: As referred by the Rules and Open Government Committee, consider a position of support for SB 1420 (Padilla) – Food Facilities: Nutritional Information. (Williams)

[Rules Committee referral 8/13/08 – Item C(1)(a)]

- * **TO BE HEARD NO EARLIER THAN 2:00 P.M. PER DISTRICT 2**

- 3.6 **Report of the Rules and Open Government Committee – August 6, 2008**
Mayor Reed, Chair

- (a) City Council (City Clerk)

(1) Review August 12, 2008 Final Agenda

(2) Review August 19, 2008 Special Meeting Draft Agenda

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (c) Legislative Update

(1) State

(a) Recommendation to adopt a support position for SB 1420 (Padilla). (Williams)

- * **SEE ITEM 3.5 FOR COUNCIL ACTION TO BE TAKEN**

(b) Sacramento Update (verbal report). (City Manager’s Office)

(2) Federal

(a) Recommendation to adopt a support position for Federal Housing Legislation: HR 5772 (Murphy) and S 2666 (Cantwell). (Housing)

- * **HEARD BY COUNCIL 8/12/08**

- (d) Meeting Schedule

(1) Approval to reschedule the Employment Lands Study Session from September 2, 2008 to September 16, 2008 from 7:00 p.m. to 9:00 p.m. (Planning, Building and Code Enforcement)

(2) Recommendation to set a General Plan City Council fall hearing for the evening of December 2, 2008 continued to December 16, 2008 for General Plan amendments. (Planning, Building and Code Enforcement)

- (e) The Public Record

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.6 Report of the Rules and Open Government Committee – August 6, 2008 (Cont'd.) Mayor Reed, Chair

- (f) Appointments to Boards, Commissions and Committee
 - (1) Recommend appointment of two former members of the Advisory Commission on Rents to the Mobilehome Advisory Commission to a term ending December 31, 2008 and approve amending the structure of the Mobilehome Advisory Commission. (Nguyen)
* **HEARD BY COUNCIL 8/19/08**
 - (2) Approval Library Commission Re-appointment of Caroline Martin to a term ending June 30, 2011. (Oliverio)
* **HEARD BY COUNCIL 8/19/08**
 - (3) Approve appointment of Richard Holden to the Arts Commission to fill an unexpired term ending June 30, 2009. (Williams)
* **HEARD BY COUNCIL 8/19/08**
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve the proposed designation of Councilmember Chirco as the voting delegate and Councilmember Chu as the alternate voting delegate at the September 27, 2008 Annual Business Meeting for the League of California Cities. (City Manager's Office)
* **HEARD BY COUNCIL 8/12/08**
 - (2) Accept the proposed Framework for the Formulation of a Citywide Inclusionary Housing Policy. (Housing)
- (h) Review of additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (a) Add report entitled "Audit of City Funds for the Pune Sister City Committee" to the August 25, 2008 CED Committee agenda. (City Manager's Office)
 - (b) Add status report regarding the Joint City-County Health Care Planning Task Force to the next CED Committee agenda. (Liccardo)
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment
- * (Deferred from 8/19/08 – Item 3.2)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair – *No Report.*

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 [Housing Director Authority Relating to Predevelopment Loans and Second Mortgages.](#)

Recommendation:

- (a) Approve an ordinance amending Chapter 5.06 of Title 5 of the San José Municipal Code – “Contract Authority of the Director of Housing, City Manager and Director of Finance” – to modify the Director of Housing’s delegated authority by: eliminating the maximum amount of predevelopment loans that can be made to nonprofit housing developers by the Director; and authorizing the Director to make commitments of project-based second mortgages.
- (b) Adopt a resolution to increase the maximum amount of predevelopment loans that can be approved by the Director of Housing from \$100,000 to \$500,000; and set a \$500,000 limit on the amount of project-based second mortgages that can be committed by the Director of Housing to any one for-sale development.

CEQA: Not a Project. (Housing)

(Deferred from 5/20/08 – Item 4.3, 6/3/08 – Item 4.4, and 8/5/08 – Item 4.2)

RECOMMEND DEFERRAL TO SEPTEMBER 2008

4.3 [Mexican Heritage Plaza Transition Plan.](#)

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Recommendation:

- (a) Accept the report presented to the Community & Economic Development Committee on June 23, 2008 regarding the Mexican Heritage Plaza transition update.
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a cooperation agreement with the Hispanic Foundation of Silicon Valley to join the City in managing the business planning process for the Mexican Heritage Plaza transition to community cultural center.

CEQA: Not a Project. Council District 5. (City Manager’s Office/General Services)

[Community and Economic Development Committee referral 06/23/08 – Item (h)]

(Deferred from 8/5/08 – Item 4.3 and 8/19/08 – Item 4.2)

4.4 [Rezoning real property located on the southeast corner of North First Street and East Rosemary Street.](#)

[Attachment – Memo from Councilmember Liccardo](#)

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Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of North First Street and East Rosemary Street from CN-Commercial Neighborhood, CG-Commercial General, and LI-Light Industrial Zoning Districts to A(PD) Planned Development Zoning District to allow 290 multi-family residential units on a 4.045 gross acre site (Metro Eight Properties, LLC, Owner; ROEM Development Corporation, Developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

[PDC07-101](#) – District 3

(Deferred from 8/12/08 – Item 11.3)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 [ADMINISTRATIVE HEARING regarding an appeal of the Planning Commission's decision to approve a Conditional Use Permit to convert an existing bookstore for daycare center and preschool use.](#)

[Attachment – Memo from Councilmember Chirco](#)

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to approve a Conditional Use Permit to convert an existing bookstore for daycare center and preschool use on a 0.40 gross acre site, in the CO Office Commercial Zoning District, located on the northwest corner of Bercaw Lane and Wyrick Avenue (14381 Bercaw Lane) (Beck, Diaz and Menendez, LLC, Owner). CEQA: Exempt.

CP07-092 – District 9

(Deferred from 8/19/08 – Item 11.2)

4.6 [Acquisition and Predevelopment Funding for the Airport Parkway Apartments Project.](#)

Recommendation: Adopt a resolution approving an acquisition and predevelopment funding commitment of up to \$11,400,000 to BRIDGE Housing Corporation, or its designated affiliate, for the 200-unit Airport Parkway Apartments project located at 40 and 50 Airport Parkway which will include units for residents at extremely low-income, very low-income, and low-income levels as well as households with higher incomes. CEQA: Resolution No. 72768 and Addendum thereto, PDC06-130. Council District 3. (Housing)

* **RECOMMEND DEFERRAL TO 9/9/08 PER DISTRICT 3**

4.7 [Public Hearing on the Historic Landmark Designation for the Former Main Library Building.](#)

Recommendation: Adopt a resolution to decline to designate the former Main Library building as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature. CEQA: Not a Project. Council District 3. (Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee – [August 14, 2008](#)** **Councilmember Chirco, Chair**

- (a) Report on Alum Rock Form Based Zoning. (Planning, Building and Code Enforcement)
- (b) Inclusionary Housing Update. (Housing)
- (c) Report on PDO/PIO In Lieu Fee Adjustment. (Parks, Recreation and Neighborhood Services)

(Item continued on the next page)

5. NEIGHBORHOOD SERVICES

5.1 **Report of the Neighborhood Services and Education Committee – August 14, 2008 (Cont'd.)**

- (d) San José State University Schedule/Joint Use Agreement Update. (Parks, Recreation and Neighborhood Services)
- (e) Report on Park Walking Distance Standards. (Parks, Recreation and Neighborhood Services)
- (f) Report on Key Legislative Items. (City Manager's Office)
- (g) Review of Quarterly Performance Measure Report. (Neighborhood Services CSA)
- (h) Strong Neighborhoods Monthly Update. (City Manager's Office)
 - (1) Neighborhoods Commission Update
- (i) Schools/City collaborative Monthly Update. (City Manager's Office)
 - (1) Reports from School Safety, Joint Use, and Teacher Recruitment/Retention Sub-committees.
- (j) Oral Petitions
- (k) Adjournment

5.2 **Report on Bids and Action Related to Bascom Library and Community Center Project.**

Supplemental – Memo from the Director of Public Works

Recommendation:

- (a) Conduct a hearing to determine whether the low bid submitted by Zolman Construction & Development, Inc. for the Bascom Library and Community Center Project should be rejected on the ground that Zolman was not qualified to submit a bid.
 - (b) Award the construction contract for the project to the low bidder, John Plane Construction, Inc., to include the base bid and add alternative Nos. 1 and 3, in the amount of \$17,974,000 and approve a contingency in the amount of \$1,797,000.
- CEQA: Exempt, File No. PP07-081. Council District 6. SNI: Burbank/Del Monte.
(Parks, Recreation and Neighborhood Services/Library/Public Works)
(Deferred from 6/10/08 – Item 5.3 and et. al., and 8/12/08 – Item 5.2)

5.3 **Actions Related to Neighborhood Clean-up Bin Services for Recycle Plus Collection in Districts A and C.**

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Recommendation: Adopt a resolution authorizing the Director of Finance to:

- (a) Execute a three and a half year agreement with Green Waste Recovery, Inc. (San José, CA) with a not-to-exceed compensation of \$1,357,950 for the first 18 months (January 1, 2009 through June 30, 2010).
- (b) Exercise a compensation adjustment after the first 18 months of the term subject to the Refuse Rate Index, an index based on a combination of the Consumer Price and Producer Price Indexes, and appropriation of funds.

(Item continued on the next page)

5. NEIGHBORHOOD SERVICES

5.3 Actions Related to Neighborhood Clean-up Bin Services for Recycle Plus Collection in Districts A and C. (Cont'd.)

Recommendation:

- (c) Execute change orders as required to add or delete Neighborhood Clean-Up bin services based on changing program requirements.
- (d) Exercise one two-year option to extend the term of the agreement, from July 1, 2013 through June 30, 2015, subject to the Refuse Rate Index and annual appropriation of funds.

CEQA: Negative Declaration, File No. PP06-119. (Finance)

5.4 Action Related to Outdoor Animal Care.

- * **Recommendation:** Approve [an ordinance](#) amending Section 7.20.020 of Chapter 7.20 of Title 7 of the San José Municipal Code to require both shade and shelter for animals who are maintained outdoors. CEQA: Not a Project. (General Services)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair – *No Report.*

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Urban Runoff Management Plan 2007-2008 Annual Report.

[Attachment – Urban Runoff Management Plan](#)

Recommendation: Authorize submittal of the 2007-2008 Urban Runoff Management Plan Annual Report and certification to the San Francisco Bay Regional Water Quality Control Board in conformance with the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System permit requirements, pursuant to the Federal Clean Water Act. CEQA: Not a Project. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 “City Council and Agency Board actions related to award of a contract for construction of the SoFA Sidewalk Demonstration Project”, 8.2 “Award of a construction contract for construction of improvements on the site surrounding the San José McEnery Convention Center South Hall”, 8.3 “Acceptance of an update report on the Convention Center Phase I Expansion Project”, and 8.4 “Approval of an amendment to the DDA with Imwalle Properties for the site located at 1696 Story Road and 1101 South King Road...” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

- Notice of City Engineer’s Pending Decision on Final Maps

* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9978	Northwest corner of East Taylor Street and North 6 th Street	3	Todd and Maureen Zeman	5 Lots / 5 Units	Single Family Detached	Approve

- Notice of City Engineer’s Award of Construction Projects

- Open Forum

- Continue RDA Board Meeting (immediately following Open Forum)

- Adjournment

This meeting will be adjourned in memory of David Allard, Sr., a City employee for over 13 years, who passed away June 17, 2008.

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.